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1973/01/11

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Originals

~~TOP SECRET~~/SENSITIVE

January 11, 1973

Understandings Associated with the Agreement

Mutual Understandings

Tab 1: Reconnaissance (Agreed; Confirmed Jan. 9)

Tab 2: Aircraft Carriers (DRV wants "Vietnam" and "within 60 days")

Tab 3: Prisoners/MIA of the Parties (Agreed; Confirmed Jan. 9)

Tab 4: Laos and Cambodia (New version)

Tab 5: Mutual Understanding on Cambodia (Handed over; not accepted) (New version)

Tab 6: Unconditional Return of U.S. Prisoners (Handed over) We may drop

Tab 7: Formation of NCNRC (Handed over; DRV rejects linkage They drop

Tab 8: Vietnamese Civilian Detainees in South Vietnam (New version)

Tab 9: U.S. Government Civilian Personnel in South Vietnam (Handed over) (New version)

Unilateral Statements

Tab 10: Vietnamese Armed Forces in South Vietnam (Not yet handed over)

Tab 11: Non-recognition (Not yet handed over)

Tab 12: Non-recognition [as footnote] (Not yet handed over) We drop

Tab 13: Internal Developments in South Vietnam (Not yet hand over)

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SA 99 C·311

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Handed over
Dec. 12
(DRV reserves)

Unconditional Return of
U.S. Prisoners

The United States reaffirms the statement of the President in his message of October 20, 1972, and the statements by Dr. Kissinger in the private meetings of September 26, October 17, November 21, November 23, and December 9, 1972 that the United States signs ~~the~~ Agreement with the explicit understanding that the return of all U.S. military and civilian prisoners throughout ~~Indochina~~ Vietnam is guaranteed unconditionally and is not linked in any way with the settlement by the South Vietnamese parties of the question of civilian detainees in South Vietnam.

-- Given Tho's remarks Jan. 9, HK will consider whether formal understanding is necessary.

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Regarding Laos and Cambodia

The following is understood between the United States and the Democratic Republic of Vietnam:

Message in the Name of the Prime Minister of the Government of the Democratic Republic of Vietnam, October 21, 1972, in Reply to the Message of the President of the United States Dated October 20, 1972:

Once more, in order to show its good will, the Government of the Democratic Republic of Vietnam wishes to make clear its viewpoint regarding the unilateral statements mentioned by the United States in its message of October 20, 1972 as follows:

(a) Concerning the understandings on the part of the Democratic Republic of Vietnam as mentioned during the private meetings in September and October of the current year, the DRV side will carry out, without any change, what it has declared to the U.S. side. But it should be made clear that the questions of Laos and Cambodia must be settled in accordance with the sovereignty of these two countries. Both the Government of the Democratic Republic of Vietnam and the Government of the United States have the obligations to respect the sovereignty of Cambodia and Laos pledged by the two parties in Article 15 /Article 20/ of the agreement on Vietnam, which has been agreed upon.

However, the Democratic Republic of Vietnam side will do its utmost to come to an agreement with its allies, with a view of finding a satisfactory solution to the questions with which the United States is concerned. The DRV side is of the view that certainly the ending of the war in Vietnam will positively contribute to rapidly restoring peace in Laos and Cambodia.

(b) With respect to Laos, the Democratic Republic of Vietnam and the United States have agreed on the following:

"On the basis of respect for the principles of the 1962 Geneva Agreement on Laos, the Democratic Republic of Vietnam and the United States welcome the current negotiations between the two concerned Lao parties, and will actively contribute toward rapidly bringing these negotiations to a successful conclusion,

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so as to make possible a ceasefire in Laos within one month after the 'Agreement on Ending the War and Restoring Peace in Vietnam' comes into force.

"After the ceasefire in Laos, the foreign countries in Laos will arrange the modalities of the implementing Article 15 b) /Article 20 b)/ of the 'Agreement on Ending the War and Restoring Peace in Vietnam.'"

The Lao Patriotic Front has informed the DRV side that it is ready to agree with the other side on a ceasefire in Laos within one month of October 31, 1972 or within a shorter period of time, and that the Americans captured in Laos will be promptly released, before December 30, 1972.

(c) After the war in Vietnam is ended, the DRV side will actively contribute to restoring peace in Cambodia. The DRV side has been clearly informed that there is no American captive in Cambodia.

(d) The DRV side declares that Article 15 b) /Article 20 b)/ -- providing that foreign countries shall stop all military activities in Laos and Cambodia, completely withdraw from and refrain from re-introducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material -- is applied to all foreign armed forces, including those of the United States, Thailand and the Vietnamese parties, etc.

<u>Message from the President of the United States to the Prime Minister of the Government of the Democratic Republic of Vietnam Dated October 22, 1972</u>:

The President notes with appreciation the message from the Prime Minister of the Democratic Republic of Vietnam which satisfies all his points with respect to Laos and Cambodia as well as U.S. prisoners.

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Additional Understandings

1. In the private meeting of January 10, 1973, between the U.S. and the DRV, it was agreed, after consultation with the concerned Lao parties, that the period of one month following the signature of the Agreement, specified in the above exchange of messages with respect to a ceasefire in Laos, will be reduced to a period of no more than fifteen days. In the private meeting of January 9, 1973, it was furthermore agreed that all U.S. military and civilian prisoners detained in Laos shall be released no later than sixty days following the signature of the Agreement.

2. Because of the rearrangement and renumbering of the articles of the Agreement, as agreed to between the U.S. and DRV on November 21, 1972, Article 15 referred to in the above-quoted exchange of messages is now Article 20 of the Agreement.

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SA 99 C-313
16/17

ON PROBLEMS CONCERNING CAMBODIA AND LAOS

With regard to the documents handed by the U.S. side to the D.R.V.N. side on October 8, 9, 10, and 11, 1972 on questions relating to Cambodia and Laos, the Democratic Republic of Viet Nam deems it necessary to reiterate its position as follows:

1. The fundamental national rights of the peoples of Cambodia and Laos which have been recognized by the 1954 Geneva Agreements on Indochina and the 1962 Geneva Agreement on Laos — independence, sovereignty, unity and territorial integrity — must be strictly respected.

Foreign countries shall put an end to all military activities in Laos and Cambodia, totally withdraw from these two countries, and refrain from reintroducing there troops, military advisers and personnel, armaments, muntions and war material.

The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries, without foreign interference.

The problems existing between the three Indochinese countries shall be settled by the Indochinese parties, on the basis of respect for each other's independence, sovereignty, territorial integrity, and non-interference in each other's internal affairs.

2. The peaceful settlement of the Viet Nam question will positively contribute to the restoration of peace in Laos and Cambodia.

3. On the basis of respect for the principles of the 1962 Geneva Agreement on Laos, the Democratic Republic of

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will actively contribute toward rapidly bringing these negotiations to a successful conclusion so as to make possible the realization of a cease-fire in Laos within one month after the "Agreement on Ending the War and Restoring Peace in Viet Nam" comes into force.

After the cease-fire in Laos comes into effect, the Democratic Republic of Viet Nam and the United States welcome the fact that the foreign countries in Laos will arrange modalities for implementing Article 15 (b) of the "Agreement on Ending the War and Restoring Peace in Viet Nam".

4. As regards the return of Americans captured in Laos, the Democratic Republic of Viet Nam fully supports the statement on March 29, 1971 by Prince Souphanouvong, Chairman of the Lao Patriotic Front, that the question of captured persons of the other side, including U.S. pilots, will be settled immediately after the United States has put an end to all its intervention in Laos.

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SA 99 C-315
Content of US draft understanding Dec. 12, 1972

Cambodia

The following extracts from the U.S. message of October 20 and the DRV message of October 21, 1972, constitute the full exchange reflecting the agreed understanding of the United States and the Democratic Republic of Vietnam on the subject of Cambodia:

U.S. Statement (Message of October 20, 1972):

In order to avoid starting a new relationship on the basis of misunderstandings, clarification of these statements is absolutely necessary.

(a) With respect to the question of prisoners, the U.S. side has stated on innumerable occasions that under no circumstances can it sign an agreement that does not unconditionally guarantee the return of all its military and civilian prisoner throughout Indochina. Accordingly, the formulation in the DRV unilateral statement handed over on October 17 which makes the return of prisoners in Laos conditional on a Laotian settlemer and makes no mention of prisoners in Cambodia is unacceptable. The U.S. side has proceeded on the assumption of the assurance given by Special Advisor Le Duc Tho that the DRV will make itself responsible for the return of all U.S. military and civilian prisoners held throughout Indochina. Therefore, the U.S. side requires a DRV unilateral statement along the lines of the text handed over on October 8, 9 and 12, 1972, to read as follows:

> "With respect to U.S. military men and civilians held in Indochinese countries outside of Vietnam, the DRV undertakes to make arrangements for their identification and return to United States authority in accordance with the same schedule established for the release of U.S. military men and civilians detained in Vietnam. The DRV will also assure that the provision in the overall agreement for verification of those U.S. military men and civilians considered missing in action will be applied also in Laos and Cambodia."

* * *

(c) With respect to Cambodia, the U.S. side operates on the basis of the following statements made by Special Advisor Le Duc Tho at private meetings with Dr. Kissinger on September 26 and 27 and October 8 and 11, 1972:

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-- The questions of the war in Vietnam and Cambodia are closely linked; when the war is settled in Vietnam, there is no reason for the war to continue in Cambodia (September 27);

-- Once the Vietnam problem is settled, the question of Cambodia certainly will be settled; and the end of the Vietnamese war will create a very great impact that will end the war in Cambodia perhaps immediately (October 8);

-- It is an understanding between us that the DRV will abide by the principle that all foreign forces, including its own, must put an end to their military activities in Cambodia and be withdrawn from Cambodia and not be reintroduced (September 26);

-- The DRV will follow the same principles in Cambodia that it will follow in South Vietnam and Laos, that is, it will refrain from introducing troops, armament, and war material into Cambodia (October 11); and

-- As Article 18 /Article 23/ states, the obligations of this agreement come into force on the day of its signing (October 11).

The United States reiterates its view as expounded by Dr. Kissinger on October 11, 1972, that if, pending a settlement in Cambodia, offensive activities are taken there which would jeopardize the existing situation, such operations would be contrary to the spirit of Article 15 b) /Article 20 b)/ and to the assumptions on which this agreement is based.

DRV Statement (Message of October 21, 1972):

(a) Concerning the understandings on the part of the Democratic Republic of Vietnam as mentioned during the private meetings in September and October of the current year, the DRV side will carry out, without any change, what it has declared to the U.S. side. But it should be made clear that the questions of Laos and Cambodia must be settled in accordance with the sovereignty of these two countries. Both the Government of the Democratic Republic of Vietnam and the Government of the United States have the obligations to respect the sovereignty of Cambodia and Laos pledged by the two parties in Article 15 /Article 20/ of the agreement on Vietnam, which has been agreed upon.

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However, the Democratic Republic of Vietnam side will do its utmost to come to an agreement with its allies, with a view of finding a satisfactory solution to the questions with which the United States is concerned. The DRV side is of the view that certainly the ending of the war in Vietnam will positively contribute to rapidly restoring peace in Laos and Cambodia.

* * *

(c) After the war in Vietnam is ended, the DRV side will actively contribute to restoring peace in Cambodia. The DRV side has been clearly informed that there is no American captive in Cambodia.

(d) The DRV side declares that Article 15 b) /Article 20 b)/ -- providing that foreign countries shall stop all military activities in Laos and Cambodia, completely withdraw from and refrain from re-introducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material -- is applied to all foreign armed forces, including those of the United States, Thailand and the Vietnamese parties, etc.

Additional Understanding

Because of the rearrangement and renumbering of the articles of the Agreement, as agreed to between the U.S. and DRV on November 21, 1972, Articles 15 and 18 referred to in the above-quoted U.S. message of October 20, 1972, and DRV message of October 21, 1972, are now Articles 20 and 23 of the Agreement, respectively.

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Content of US draft understanding Dec. 11, 1972

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Laos

The following extracts from the U.S. message of October 20 and the DRV message of October 21, 1972, constitute the full exchange reflecting the agreed understanding of the United States and the Democratic Republic of Vietnam on the subject of Laos:

U.S. Statement (Message of October 20, 1972):

In order to avoid starting a new relationship on the basis of misunderstandings, clarification of these statements is absolutely necessary.

(a) With respect to the question of prisoners, the U.S. side has stated on innumerable occasions that under no circumstances can it sign an agreement that does not unconditionally guarantee the return of all its military and civilian prisoners throughout Indochina. Accordingly, the formulation in the DRV unilateral statement handed over on October 17 which makes the return of prisoners in Laos conditional on a Laotian settlement and makes no mention of prisoners in Cambodia is unacceptable. The U.S. side has proceeded on the assumption of the assurances given by Special Advisor Le Duc Tho that the DRV will make itself responsible for the return of all U.S. military and civilian prisoners held throughout Indochina. Therefore, the U.S. side requires a DRV unilateral statement along the lines of the text handed over on October 8, 9 and 12, 1972, to read as follows:

> "With respect to U.S. military men and civilians held in Indochinese countries outside of Vietnam, the DRV undertakes to make arrangements for their identification and return to United States authority in accordance with the same schedule established for the release of U.S. military men and civilians detained in Vietnam. The DRV will also assure that the provision in the overall agreement for verification of those U.S. military men and civilians considered missing in action will be applied also in Laos and Cambodia."

(b) With respect to Laos, the U.S. side accepts the version handed over by the DRV side on October 13, 1972, conforming

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to the U.S. text handed over on October 12, 1972, as follows:

> "On the basis of respect of the principles of the 1962 Geneva Agreement on Laos, the Democratic Republic of Vietnam and the United States welcome the current negotiations between the two concerned Lao parties, and will actively contribute toward rapidly bringing these negotiations to a successful conclusion, so as to make possible a ceasefire in Laos within one month after the "Agreement on Ending the War and Restoring Peace in Vietnam" comes into force.
>
> "After the ceasefire in Laos the foreign countries in Laos will arrange the modalities of implementing Article 15 b) /Article 20 b)/ of the "Agreement on Ending the War and Restoring Peace in Vietnam."

DRV Statement (Message of October 21, 1972):

(a) Concerning the understandings on the part of the Democratic Republic of Vietnam as mentioned during the private meetings in September and October of the current year, the DRV side will carry out, without any change, what it has declared to the U.S. side. But it should be made clear that the questions of Laos and Cambodia must be settled in accordance with the sovereignty of these two countries. Both the Government of the Democratic Republic of Vietnam and the Government of the United States have the obligations to respect the sovereignty of Cambodia and Laos pledged by the two parties in Article 15 /Article 20/ of the agreement on Vietnam, which has been agreed upon.

However, the Democratic Republic of Vietnam side will do its utmost to come to an agreement with its allies, with a view of finding a satisfactory solution to the questions with which the United States is concerned. The DRV side is of the view that certainly the ending of the war in Vietnam will positively contribute to rapidly restoring peace in Laos and Cambodia.

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(b) With respect to Laos, the Democratic Republic of Vietnam and the United States have agreed on the following:

"On the basis of respect for the principles of the 1962 Geneva Agreement on Laos, the Democratic Republic of Vietnam and the United States welcome the current negotiations between the two concerned Lao parties, and will actively contribute toward rapidly bringing these negotiations to a successful conclusion, so as to make possible a ceasefire in Laos within one month after the "Agreement on Ending the War and Restoring Peace in Vietnam" comes into force.

"After the ceasefire in Laos, the foreign countries in Laos will arrange the modalities of implementing Article 15 b) /Article 20 b)/ of the 'Agreement on Ending the War and Restoring Peace in Vietnam.'"

The Lao Patriotic Front has informed the DRV side that it is ready to agree with the other side on a ceasefire in Laos within one month of October 31, 1972 or within a shorter period of time, and that the Americans captured in Laos will be promptly released, before December 30, 1972.

* * *

(d) The DRV side declares that Article 15 b) /Article 20 b)/ -- providing that foreign countries shall stop all military activities in Laos and Cambodia, completely withdraw from and refrain from re-introducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material -- is applied to all foreign armed forces, including those of the United States, Thailand and the Vietnamese parties, etc.

Additional Understandings

1. During the private meeting of _____ between the U.S. and the DRV, it was agreed that the period of one month specified in the above exchange of messages with respect to a ceasefire in Laos will be reduced to ____ days, and that all U.S. military and civilian prisoners detained in Laos shall be released no later than _____ days following the signature of the Agreement on Ending the War and Restoring Peace in Vietnam.

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2. Because of the rearrangement and renumbering of the articles of the Agreement, as agreed to between the U.S. and DRV on November 21, 1972, Article 15 referred to in the above-quoted U.S. message of October 20, 1972, and DRV message of October 21, 1972, is now Article 20 of the Agreement.